

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent of:	§	
Myers et al.	§	U.S. Patent No. 7,065,186
	§	
Serial No. 09/707,987	§	Issued: June 20, 2006
	§	
Filed: November 8, 2000	§	Docket Number: 27238.31
	§	
For: Telephone Based Access to Instant	§	Confirmation Number: 1024
Messaging	§	

**REQUEST FOR CORRECTION  
UNDER 35 USC §254 and 37 CFR §1.322 (a) and (b)**

Mail Stop Certificate of Correction Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby request correction of the above-identified patent. The present request is filed pursuant to 35 USC § 254 and 37 CFR § 1.322(a) because the mistakes were incurred through the fault of the United States Patent and Trademark Office (the "USPTO"). The present request is also subject to 37 CFR § 1.322(b) because the nature of the mistake is such that a Certificate of Correction is inappropriate to correct the mistake, and a corrected patent should be issued in lieu thereof. Namely, the patent mistakenly omits Independent Claim 20 (previously numbered during prosecution of the application as Claim 55).

Attached hereto are the following documents in support of this Request for Correction:

**Exhibit A** - a copy of the Examiner's Comments on Allowance, included with the Notice of Allowance mailed from the USPTO on January 26, 2006, identifying Claim 55 as allowed

**Exhibit B** - a copy of Applicants' response to Office Action filed February 28, 2005 containing allowed Claim 55.

In view of these documents, Applicants submit that previously numbered Claim 55 was reviewed, prosecuted, and allowed by the Examiner. However, the USPTO erroneously omitted

this Independent claim from the printing of the issued patent.

No fees are believed to be necessary for consideration of the present request, as the mistakes were incurred through the fault of the Patent and Trademark Office. If, however, any fees are required, I authorize the Commissioner to charge such fees to Haynes and Boone, LLP, Deposit Account No. 08-1394.

Respectfully submitted,



David L. McCombs  
Registration No. 32,271

Date: 28 Oct 2006  
HAYNES AND BOONE, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202-3789  
Telephone: 214-651-5533  
Facsimile: 214-200-0853  
D1476733.1

<p>I hereby certify that this correspondence and any corresponding filing fee is being transmitted via the Electronic Filing System (EFS) Web with the United States Patent and Trademark Office on the date indicated below.</p> <p><u>Oct. 23, 2006</u></p> <p><u>Gayle Conner</u></p> <p>Gayle Conner</p>
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## UNITED STATES PATENT AND TRADEMARK OFFICE

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## NOTICE OF ALLOWANCE AND FEE(S) DUE

27683 7590 01/26/2006  
HAYNES AND BOONE, LLP  
901 MAIN STREET, SUITE 3100  
DALLAS, TX 75202

RECEIVED

JAN 30 2006

HAYNES &amp; BOONE LLP

EXAMINER	
GAUTHIER, GERALD	
ART UNIT	PAPER NUMBER

2645

DATE MAILED: 01/26/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,987	11/08/2000	John C. Myers	11559STUS02U	1024

TITLE OF INVENTION: TELEPHONE BASED ACCESS TO INSTANT MESSAGING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$1400	04/26/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

1:30:06  
27938.31

# PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
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(571) 273-2885

or Fax

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

27683 7590 01/26/2006

HAYNES AND BOONE, LLP  
901 MAIN STREET, SUITE 3100  
DALLAS, TX 75202

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/077,987	11/08/2000	John C. Myers	115598TU02U	1024

TITLE OF INVENTION: TELEPHONE BASED ACCESS TO INSTANT MESSAGING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$1400	04/26/2006
EXAMINER	ART UNIT	CLASS-SUBCLASS			
GAUTHIER, GERALD	2645	379-067100			

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47, Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,987	11/08/2000	John C. Myers	11559STUS02U	1024
27683 7590 01/26/2006				
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202				
EXAMINER GAUTHIER, GERALD				
ART UNIT PAPER NUMBER				
2645				
DATE MAILED: 01/26/2006				

**Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)**  
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 365 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 365 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability

Application No.

09/707,987

Examiner

Gerald Gauthier

Applicant(s)

MYERS ET AL.

Art Unit

2645

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/28/2005 Amendment.
2. ☒ The allowed claim(s) is/are 33-50 and 52.
3. ☒ The drawings filed on 08 November 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of the:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).  
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable***

1. **Claim(s) 33-50, 52 and 55** are allowed.
2. The following is an examiner's statement of reasons for allowance:

Regarding **claim(s) 33, 34 and 55**, the prior art of record fails to disclose or specifically suggested determining if the subscriber is a personal communications subscriber and if so, maintaining a presence on the data network for forwarding instance messages to the subscriber and if not, presenting to the subscriber a subset of a predetermined user list, the subset representing users logged onto the data network.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**GERALD GAUTHIER**  
**PATENT EXAMINER**  
g.g.  
July 5, 2005

  
**CREIGHTON SMITH**  
**PRIMARY EXAMINER**



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	Attorney Docket No. 35715.6
Myers	§	(11559STUS02U)
	§	Customer No. 27683
Serial No.: 09/707,987	§	
	§	Group Art Unit: 2645
Filed: November 8, 2000	§	
	§	Examiner: Gauthier, Gerald
For: TELEPHONE BASED ACCESS	§	
TO INSTANT MESSAGING	§	Confirmation No.: 1024

**RESPONSE TO OFFICE ACTION****Mail Stop Amendment**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action of December 28, 2004, please amend the above-identified application as follows:

**Amendments to the Claims** are reflected in the listing of claims, which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 6 of this paper.

### **Amendments to the Claims**

This listing of claims will replace all prior versions, and listings, of claims in the application:

#### **Listing of Claims**

Claims 1-32 (Canceled)

Claim 33 (Currently amended): A method of accessing instant messaging on [[the]] a data network at a telephone comprising the steps of:

identifying a subscriber, a telephone number at which they can receive messages, and a period of time for which they can receive messages at this number;  
establishing the user's presence and ability to receive instant messages on the data network during the specified time period;

determining if the subscriber is a personal communications subscriber and if so, maintaining a presence on the data network for forwarding instance messages to the subscriber, and if not, presenting to the subscriber a subset of a predetermined user list, the subset representing users logged onto the data network ; and

where an instant message is sent to the subscriber during ~~this~~the period of availability, calling the subscriber at the predetermined telephone number and delivering the message and an identity of a sender of the message by voice synthesis.

Claim 34 (Currently amended): A method of accessing instant messaging on a data network at a telephone comprising the step of:

identifying a telephone user as a subscriber, a telephone number at which they can received messages, and a period of time for which they can receive messages at this number.

establishing the subscriber's presence and ability to receive instant messages on the data network during the specified time period;

determining if the telephone user is a personal communications subscriber, and

if so, maintaining a presence in the data network for the telephone user for receiving and forwarding instant messages to the telephone user, and if not, presenting to the subscriber a subset of a predetermined user list, the subset representing users logged onto a data network;

responsive to the subscriber selecting a particular user from the subset of the predetermined user list, sending a message from the subscriber to the selected data network user using an instant messaging protocol.

Claim 35 (Original): A method as claimed in claim 34 wherein the step of presenting occurs upon receipt of a predetermined command from the subscriber.

Claim 36 (Original): A method as claimed in claim 35 wherein the step of presenting includes voice synthesizing names on the user list.

Claim 37 (Original): A method as claimed in claim 35 wherein the step of presenting includes playing back prerecorded names on the user list.

Claim 38 (Original): A method as claimed in claim 35 wherein the step of presenting includes displaying names on the user list on a display associated with the telephone.

Claim 39 (Original): A method as claimed in claim 34 wherein the step of presenting occurs automatically upon login by the subscriber.

Claim 40 (Original): A method as claimed in claim 39 wherein the step of presenting includes voice synthesizing names on the user list.

Claim 41 (Original): A method as claimed in claim 39 wherein the step of presenting includes displaying names on the user list on a display associated with the

telephone.

Claim 42 (Original): A method as claimed in claim 39 wherein the step of presenting includes playing back prerecorded names on the user list.

Claim 43 (Original): A method as claimed in claim 34 wherein the step of selecting includes the step of receiving a DTMF command from the subscriber.

Claim 44 (Original): A method as claimed in claim 34 wherein the step of selecting includes the step of receiving a voice command from the telephone user.

Claim 45 (Original): A method as claimed in claim 34 wherein the step of selecting includes the step of receiving a proprietary signal from the telephone.

Claim 46 (Original): A method as claimed in claim 34 wherein the step of sending a message includes recording and sending a voice message.

Claim 47 (Original): A method as claimed in claim 34 wherein the step of sending a message includes sending a prerecorded voice message.

Claim 48 (Original): A method as claimed in claim 34 wherein the step of sending a message includes sending a prerecorded text message.

Claim 49 (Original): A method as claimed in claim 34 wherein the step of sending a message includes sending a text transcription of a voice message.

Claim 50 (Original): A method as claimed in claim 34 further comprising the steps of receiving an instant message in response the message sent by the telephone user and notifying the telephone user of the receipt of the message.

Claim 51 (Canceled):

Claim 52 (Original): A method as claimed in claim 50 further comprising the steps of, during the duration of time, receiving an instant message in response the message sent by the telephone user and notifying the telephone user of the receipt of the message at the telephone user's telephone number.

Claim 53-54 (Cancelled)

Claim 55 (Previously presented): A method of accessing instant messaging on a data network at a telephone comprising:

identifying a telephone user as a subscriber, a telephone number at which they can received messages, and a period of time for which they can receive messages at this number.

establishing the subscriber's presence and ability to receive instant messages on the data network during the specified time period;

presenting to the subscriber a subset of a predetermined user list, the subset representing users logged onto a data network, wherein the presenting includes:

determining whether the telephone user is logged onto the data network by determining if the telephone subscriber is a personal communications subscriber and if the user is, maintaining a presence in the data network for the telephone user for receiving and forwarding instant messages to the telephone user and,

if the telephone user is not logged onto the data network, then presenting the user list; and

responsive to the subscriber selecting a particular user from the subset of the predetermined user list, sending a message from the subscriber to the selected data network user using an instant messaging protocol.

## **REMARKS**

Claims 33 and 34 have been amended. Claims 53 and 54 have been cancelled. Claims 35-50, 52, and 55 have been maintained in their current form.

Applicant thanks the Examiner for the telephone conversation of January 26, 2005, in which the Examiner agreed that claim 55 as previously amended was actually allowable being based on previously objected to claim 54 and the corresponding and intervening claims, 34 and 54, respectively.

### Rejection under 35 U.S.C. §102

Claim 33 was rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,430,604 to Ogle, et al. ("Ogle"). Applicant has amended claim 33 and incorporated the elements of previously objected to dependent claim 54 and intervening claim 53. Therefore applicant submits that claim 33 is in condition for allowance.

### Rejection under 35 U.S.C. §103

Claim 34 was rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,430,604 to Ogle, et al. ("Ogle") in view of U.S. Patent Application No. 2001/0013050 A1 by Shah ("Shah"). Applicant has amended claim 34 to incorporate the limitations of objected to claim 54 and intervening claim 53. Claims 53 and 54 have been cancelled. Therefore Applicant submits that claim 34 and dependent claims 35-50 and 52 are in condition for allowance

### Objections to the Claims

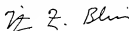
Claims 36-38, 40-42, and 54 were objected to as being dependent upon a rejected base claim. The Examiner indicated these claims would be allowable if written in independent format, including intervening claims. As stated, Applicant has incorporated the elements of claims 53 and 54 into both independent claims 33 and 34. Applicant has also incorporated the limitations of claims 34, 53, and 54 into claim 55, which the Examiner indicated during the phone call of January 26, 2005, would be

allowable.

Conclusion

It is respectfully submitted that all pending claims are in condition for allowance. Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the below listed telephone number.

Respectfully submitted,



Timothy F. Bliss  
Registration No. 50,925

Dated: February 24, 2005  
HAYNES AND BOONE, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202-3789  
Telephone: 972/739-8638  
Facsimile: 972/692-9101  
File: 35715.6  
R-98828.1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 24, 2005.

  
Gayle Conner